

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	3:10CR174
	)	JANUARY 3, 2011
vs	)	
	)	
JAMAR SERON RANDALL,	)	
	)	
Defendant.	)	
_____	/	

TRANSCRIPT OF CALENDAR CALL  
BEFORE THE HONORABLE FRANK D. WHITNEY  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE UNITED STATES:	JENNY G. SUGAR, ESQ.
	U. S. Attorney's Office
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1 (Calendar call.)

2 THE COURT: Now we do Randall. 3:10CR74, United  
3 States v. Randall.

4 Ms. Sugar and Mr. Williams. No Mr. Williams.  
5 He'll be here at 2:00, though, I presume. Right?

6 MS. SUGAR: Yes, Your Honor.

7 THE COURT: What do we do in this case for  
8 purposes of the Speedy Trial Act?

9 MS. SUGAR: Mr. Williams has filed a motion to  
10 continue the suppression hearing, so to the extent that's  
11 something Your Honor would entertain, it may also serve as a  
12 way to move the trial.

13 THE COURT: When did he file that?

14 MS. SUGAR: I believe he filed it on Friday or  
15 Saturday. Friday -- the 30th.

16 THE COURT: Okay. Let me get to the right docket  
17 on ECF since he filed it over the holidays. I might have  
18 seen it on my Blackberry but I did not read it.

19 Oh, I'm sorry. I did see this. Have you had any  
20 contact with Mr. Williams about this motion?

21 MS. SUGAR: Yes.

22 THE COURT: What additional time does he need?

23 MS. SUGAR: Well, Your Honor, on Thursday as the  
24 notes -- we gave some additional evidence. It was just some  
25 potential *Giglio* information on one of the witnesses, and

1 I'm speculating -- I can't speak for Mr. Williams but my  
2 understanding is this would likely have been resolved today,  
3 and he needs to review this with his client. Because of the  
4 holidays he probably didn't have an opportunity to.

5 So the government would only ask for a very brief  
6 continuance, a day or two, but I have not had a opportunity  
7 to discuss that with Mr. Williams. We'll be ready to go  
8 this afternoon.

9 THE COURT: My concern is that I have jurors under  
10 subpoena and I want to make sure -- or under summons and I  
11 want to make sure we don't waste their time.

12 Based on the face of Mr. Williams' motion to  
13 continue, I don't find that sufficient. He captioned this a  
14 Motion for Continuance of Trial, but in essence it's a  
15 Motion to Continue the Suppression Hearing. Right?

16 MS. SUGAR: Yes, Your Honor.

17 THE COURT: Because I mean down in the "whereof"  
18 clause, what he prays for, in the prayer for relief clause,  
19 he says "continue the hearing herein to the Court's next  
20 available term." So I guess he's moving to move both the  
21 hearing and the trial.

22 He knows to be here at 2:00. Right?

23 MS. SUGAR: My understanding is he's primarily a  
24 state prosecutor. I have no information whether or not he  
25 knows about this calendar call, Your Honor.

1           THE COURT: We noticed this hearing a long time  
2 ago.

3           Ms. Cochran, when did the NEF go out?

4           THE CLERK: The 20th.

5           THE COURT: He filed this on the 31st, based on a  
6 little additional evidence that was given to him on the  
7 30th.

8           I'm not going to continue the suppression hearing.  
9 We will go forward at 2:00. And as I read this Motion for  
10 Continuance of Trial, at least that's how it's captioned, in  
11 the text of the motion, though, it doesn't ask to continue  
12 the trial, it just asks for continuing the hearing. So I  
13 don't know if it really is a Motion for Continuance of Trial  
14 even though he called it that.

15           I think I'm going to deny this as a Motion for  
16 Continuance of Trial also, and we will be on for trial. And  
17 if the government prevails in the suppression motion this  
18 afternoon, can you chose a jury tomorrow morning? How  
19 prepared are you for trial?

20           MS. SUGAR: We would be ready to go this week,  
21 Your Honor. However, I had called your office to let them  
22 know next week I'm out of the office.

23           THE COURT: I know you're a prepaid vacation from  
24 the 10th to the 13th.

25           MS. SUGAR: But this week I would be available to

1 go, Your Honor.

2 THE COURT: Okay. So we pushed Ingram back to no  
3 earlier than the 10th. So we could have this trial -- and  
4 we pushed Tinoco back to next week, I guess the 10th also,  
5 and we hadn't decided on Cunningham. So we could proceed  
6 with this trial starting on Wednesday.

7 MS. SUGAR: Your Honor, because the suppression  
8 hearing was initially scheduled for today, my understanding  
9 was that we would then know the day of the trial. And I  
10 have not talked to the witnesses to see their availability  
11 and I haven't talked to Mr. Williams about his availability  
12 for later this week.

13 THE COURT: You don't have to worry about  
14 Mr. Williams being available. He'll be available. Because  
15 if he was here this morning, he would be able to argue why  
16 he's not available. But since he's not here, he loses that;  
17 he forfeitures that battle.

18 MS. SUGAR: Your Honor, I've not spoken to the  
19 additional witnesses for trial about their availability for  
20 this week because we thought the motion would be today, then  
21 there would be a couple weeks before the trial.

22 THE COURT: Well, you've got the ones coming in  
23 today.

24 MS. SUGAR: Yes, Your Honor.

25 THE COURT: And I presume if you prevail on that

1 motion, those are going to be your key witnesses this week.

2 MS. SUGAR: That's correct. There's just some  
3 additional experts.

4 THE COURT: Okay. So can you -- let's go on and  
5 tentatively plan that. That we'll have jury selection  
6 tomorrow and have trial begin Wednesday. And that if you  
7 can't get those witnesses, then maybe you can bring them in  
8 Thursday or Friday. We can push the trial back some.

9 MS. SUGAR: Your Honor, because of the scheduling  
10 the government has not yet filed their expert witness  
11 notices for this week. Because of the suppression hearing  
12 and the trial calendar, we have not anticipated it would go  
13 for two weeks, so the experts have not yet been noticed.

14 THE COURT: Well, Mr. Williams isn't here to  
15 complain. I mean, that's -- I mean, that's the nature of  
16 the beast. You have a calendar call and this is where you  
17 explain why it's unfair to go forward. So, I mean, since  
18 he's not here, I think it's appropriate that we go forward.

19 So just get your notices out real quickly before  
20 lunch and that will give him a couple days. That might peak  
21 his interest about how fast things are happening.

22 We'll have a suppression hearing at 2:00. If I  
23 can rule from the bench at 2:00 and the government prevails,  
24 then you go to trial. You have jury selection tomorrow and  
25 start trial Wednesday or maybe Thursday; it depends on your

1 experts. How long do you think the trial is? A day, day  
2 and a half.

3 MS. SUGAR: A day, day and a half.

4 THE COURT: Okay. And, of course, if the defense  
5 wins the suppression hearing, you might be dismissing the  
6 case or -- yeah.

7 MS. SUGAR: Yes, Your Honor.

8 THE COURT: All right. That allows you to enjoy  
9 your vacation next week which you will have earned because  
10 of the hectic pace you have this week.

11 MS. SUGAR: Thank you, Your Honor.

12 THE COURT: Thank you.

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15 **UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF NORTH CAROLINA**

16 **CERTIFICATE OF REPORTER**

17 I, JOY KELLY, RPR, CRR, certify that the foregoing  
18 is a correct transcript from the record of proceedings in  
the above-entitled matter.

19

20

21 S/JOY KELLY

22 **JOY KELLY, RPR, CRR**  
**U.S. Official Court Reporter**  
23 **Charlotte, North Carolina**

**Date** \_\_\_\_\_

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